

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO**

<b>UNITED STATES OF AMERICA,</b>	)	<b>CASE NO. 1:08CR101</b>
	)	
<b>PLAINTIFF</b>	)	<b>JUDGE PETER C. ECONOMUS</b>
	)	
<b>V.</b>	)	
	)	
<b>BRYAN M. HERBERT,</b>	)	<b>MEMORANDUM OPINION</b>
	)	<b>AND ORDER</b>
<b>DEFENDANT.</b>	)	
	)	

This matter is before the Court upon Magistrate Judge George J. Limbert's Report and Recommendation that the Court ACCEPT Defendant Bryan Herbert's ("Defendant") plea of guilty and enter a finding of guilty against Defendant. (Dkt. # 22).

On February 27, 2008, the government filed an Indictment against Defendant. (Dkt. # 1). On October 27, 2008, this Court issued an order assigning this case to Magistrate Judge Limbert for the purpose of receiving Defendant's guilty plea. (Dkt. # 18). On November 3, 2008 Defendant and his attorney executed a consent to referral of Defendant's case. (Dkt. # 21).

On November 3, 2008, a hearing was held in which Defendant entered a plea of guilty to Counts One and Two of the Indictment, receipt of child pornography, in violation of 18 U.S.C. 2256(a)(2) and 18 U.S.C. 2252(a)(2); and possession of child

pornography, in violation of 18 U.S.C. 2256(a)(4)(B).

Magistrate Judge Limbert received Defendant's guilty plea and issued a Report and Recommendation ("R&R") recommending that this Court accept the plea and enter a finding of guilty. (Dkt. # 22). Neither party objected to the Magistrate Judge's R&R in the ten days after it was issued.

On *de novo* review of the record, the Magistrate Judge's R&R is adopted. The Defendant was found to be competent to enter a plea. The Defendant understood his constitutional rights. He is aware of the consequences of entering a plea. There is an adequate factual basis for the plea. The Court finds that the plea was entered knowingly, intelligently, and voluntarily. The Defendant's plea of guilty is approved.

Therefore, the Defendant is adjudged guilty of Counts One and Two in violation of 18 U.S.C. 2256(a)(2), 18 U.S.C. 2252(a)(2) and 18 U.S.C. 2256(a)(4)(B). The sentencing will be held on February 11, 2009, at 10:00 a.m.

**IT IS SO ORDERED.**

/s/ Peter C. Economus - November 17, 2008  
**PETER C. ECONOMUS**  
**UNITED STATES DISTRICT JUDGE**